10. Notwithstanding the said Benjamin Swinger and Israel Binenstock had, on February 28th, 1933, on deposit at said Commercial National Bank the sums aforesaid greatly in excess of the indebtedness of said partnership firm of Swinger & Binenstock to said bank as aforesaid, the respondent has threatened to bring action against the complainants, or some of them, for the purpose of collecting the balance of said indebtedness.

[fol. 6] 11. Your orators, Bessie Swinger and Israel Binenstock have requested the respondent to allow as an offset in cancellation of the indebtedness of said partnership firm of Swinger & Binenstock to the Commercial National Bank so much of the deposit of Benjamin Swinger and of the deposit of Israel Binenstock at said bank as may be necessary to liquidate and cancel the same, but the respondent has always failed and refused to allow said set-off.

Wherefore your orators, being in need of equitable relief, pray—

1. That this Honorable Court order and direct the respondent to allow as an offset against the obligations of the said partnership firm of Swinger & Binenstock the amount of the deposit of the said Benjamin Swinger, now deceased, and so much of the deposit of Israel Binenstock as may be necessary to cancel the balance of said indebtedness.

2. That the indebtedness of the said bank to the complainants or any of them over and above the amount necessary to set off and cancel the liability on said notes be established.

3. For such other and further relief as the Court shall find and decree to be just and equitable in the premises.

(Sgd.) Isadore Katz, Robert T. McCracken, Attorneys for Complainant.

[fol. 7] *Duly sworn to by I. Binenstock and Bessie Swinger. Jurat omitted in printing.*

EXHIBIT "A" TO COMPLAINT

$10,000 (over). Philadelphia 1/9/1933.

Sixty days after date, we promise to pay to the order of Commercial National Bank Ten Thousand Dollars without defalcation for value received.

Payable at the Commercial National Bank, Philadelphia, Pa.

Swinger & Binenstock.

No. —. Due —.

Endorsement:

10,000

5,822.50 offset 2/21/35.

4,177.48

[fol. 8] EXHIBIT "B" TO COMPLAINT

$10,000. Philadelphia 2/28/33.

Sixty days after date we promise to pay to the order of Commercial National Bank Ten Thousand Dollars without defalcation for value received.

Payable at the Commercial National Bank, Philadelphia, Pa.

Swinger & Binenstock.

No. —. Due —.

EXHIBIT "C" TO COMPLAINT

$2604.10 (over). Philadelphia 5-1-1933.

30 days after date we promise to pay Twenty-six Hundred and four 10/100 Dollars without defalcation for Value received.

Payable at the Commercial National Bank, Philadelphia, Pa.

Swinger & Binenstock.

No. —. Due —.
Endorsement:
2604.10
500.00 a/c 5/3/33.

2104.10
500.00 a/c 6/2/33.

1604.10
500.00 a/c 7/3/33.

1104.10
500.00 a/c 8/1/33.

604.10
500.00 a/c 9/2/33.

104.10

[fol. 9] EXHIBIT "D" TO COMPLAINT

$300.00. Phila, Pa., Jan. 25, 1933.

Two months after date I promise to pay to the order of Swinger & Binenstock Three hundred 00/100 Dollars.

Payable at Commercial Nat'l Bank.

Without defalcation for value received.

Luciano Cammarota.

No. —. Due —.
Endorsement: Swinger & Binenstock.

IN UNITED STATES DISTRICT COURT

STIPULATION AS TO ANSWER—Filed August 28, 1935

It is stipulated and agreed by and between Isadore Katz, Esquire, and Robert T. McCracken, Esquire, attorneys for the complainants, and Thomas J. Minnick, Jr., Esquire, attorney for the respondent, in the above matter, that the attorneys for the complainants waive the time limitation of twenty days with which Answer was to be made to the Bill of Complaint filed in the above matter.

And it is further agreed that the Defendant's Answer by Way of Preliminary Objections to Plaintiffs' Bill of Complaint has been filed in due course.

(S.) Isadore Katz, Robert T. McCracken, Attorneys for the Complainants. (S.) Thomas J. Minnick, Jr., Attorney for the Respondent.

[fol. 10] IN UNITED STATES DISTRICT COURT

DEFENDANT'S ANSWER BY WAY OF PRELIMINARY OBJECTIONS TO PLAINTIFF'S BILL OF COMPLAINT—Filed August 28, 1935

To the Honorable, the Judges of the said Court:

The defendant, by protestation, not confessing or acknowledging all, or any, of the matters or things in said Bill contained to be true, in such manner and form as the same are therein set forth and alleged, objects to the whole of said Bill, and for cause of objection, shows:

1. That the Bill of Complaint fails to allege any matter of equity entitling plaintiff to the relief prayed for therein.

2. That the prayer for a set off in this suit is void for want of mutuality.

3. That the plaintiff has a full, adequate, and complete remedy at law.

Wherefore, and for other good causes of objection appearing upon the face of the Bill aforesaid, this defendant objects thereto, and prays the judgment of this Honorable

Court whether he shall be compelled to make any answer to the said Bill, and prays to be hence dismissed with his reasonable costs in this behalf sustained.

(Sgd.) Thomas J. Minnick, Jr., Attorney for Joseph K. Willing, Receiver of the Commercial National Bank.

[fol. 11] COMMONWEALTH OF PENNSYLVANIA,
County of Philadelphia, ss:

Joseph K. Willing, Receiver of the Commercial National Bank, being duly sworn according to law, deposes and says that he is the defendant above named, and that the foregoing is not interposed for delay.

(Sgd.) Joseph K. Willing.

Sworn to and subscribed before me this 23rd day of August A. D. 1936. (Sgd.) Agnes M. Pentland, Notary Public. My commission expires September 19, 1938. (Seal.)

IN UNITED STATES DISTRICT COURT

OPINION SUR MOTION TO DISMISS BILL IN EQUITY—Filed March 23, 1936

Before Kirkpatrick, J.

The Commercial National Bank was taken over by the Comptroller of the Currency as of February 28, 1933. On that day Swinger and Binenstock, partners, were jointly indebted to the bank upon promissory notes in an amount in excess of $20,000 (subsequently somewhat reduced by credits allowed). Binenstock had an individual deposit with the bank in excess of $30,000 and Swinger an individual deposit of about $1,500.

Binenstock as surviving partner and Mrs. Swinger as executrix of Swinger, deceased, have filed this bill in equity, setting out the above facts and also alleging that the Receiver of the Bank is about to bring action against [fol. 12] them for the balance of the joint indebtedness and that he has refused to allow the individual deposits of the two parties as a set-off against it. The prayer of the

bill is for a decree against the Receiver requiring that the individual deposit obligations be set off against the joint obligation of the partners upon notes, cancelling the liability and establishing the balances in their favor (or at least in favor of Binenstock). The respondent has moved to dismiss.

The law of the State of Pennsylvania if applicable would clearly sustain the bill. The decisions of that state allow individual claims to be set off in equity against a joint liability even though the party asserting the joint liability is solvent. Stewart vs. Coulter, 12 S. & R. 252; Cochran vs. Cutter, 18 Pa. Sup. Ct. 282. See also Mintz vs. Tri-County Natural Gas Company, 259 Pa. 477.

The Pennsylvania rule should be followed by this court if the question seems to be "balanced with doubt". Burgess vs. Seligman, 107 U. S. 20; Sim vs. Edenborn, 242 U. S. 131; Trainor Company vs. Ætna Casualty & Surety Company, 290 U. S. 47.

The only question involved upon this motion is whether the decision of the Supreme Court in Gray vs. Rollo, 85 U. S. 629, in which the set-off was not allowed, rules the case. If it does, all doubt disappears and I may not follow the state law.

But I think that Gray vs. Rollo involves a basically different situation, that the distinguishing fact in that case was the point upon which the decision turned, and that it was so important a point that the Supreme Court took occasion to point out that, had it not been present and had the facts been as they are in the case now before me, the decision would have been otherwise.

In Gray vs. Rollo, the insolvent claimant was a fire insurance company. It held notes on which Moses Gray and [fol. 13] one Gaylord were jointly liable. It owed money upon a fire loss, not to Moses Gray individually, but to a partnership consisting of himself and his brother Franklin Gray. Moses Gray attempted by a bill in equity to compel the insurance company to set off the amount due on the policies to Gray Brothers against the joint obligation of himself and Gaylord. He alleged in his bill that his brother Franklin assented to and authorized the appropriation of half of the amount due on the policies to the extinguishment of his liability upon his joint note to Gaylord, but the

court apparently considered that this allegation was unimportant.

The conclusion of the Court was that "there is no rule of justice or equity which requires that Gray Brothers should be paid in preference to other creditors of the insurance company, out of the specific assets represented by the notes of Gray and Gaylord". The Court said in effect that the rule would have to work both ways and that, if the insurance company was being sued by Gray Brothers for the insurance money and it happened that Moses Gray instead of the insurance company was insolvent, it would be unjust to Moses Gray's partner or the partnership creditors of Gray Brothers to allow the set-off, because it would mean that the insurance company would be able to pay a part of its debt to the firm with Moses Gray's worthless paper. The opinion then goes on to distinguish an earlier decision, Tucker vs. Oxley, 5 Cranch 34, in which an equitable set-off had been allowed, and observed that "the reciprocal form of this rule (that is the rule of Tucker vs. Oxley) would have enabled the complainant to succeed in this case had he been the sole claimant of the money due for insurance".

Had the complainant in Gray vs. Rollo been the sole claimant of the money due for insurance, the situation [fol. 14] would have been exactly the same as that presented by the present bill because Binenstock is the sole claimant of his deposit and Swinger's executrix the sole claimant of his. In Roelker vs. Bromley-Shepard Company, Inc., 73 Fed. (2d) 618, the Circuit Court of Appeals for the First Circuit allowed a set-off in a case similar to the present, one except for the fact that the joint obligor who claimed the set-off may have been an accommodation party to the note (although the court said that the evidence to that effect should not have been received and did not affect the result). The Court expressly confirmed the right of set-off of an individual debt against a joint liability where the insolvency of the payee appears and an action is brought upon a joint note by his receiver or trustee in bankruptcy.

It is generally recognized that the insolvency of the obligee of a joint debt is a factor which may be considered in determining whether one of the joint obligors may in equity set off an individual claim. The Pennsylvania rule is clearly to the effect that the set-off claimed in this bill in

equity is allowable. There is no decision of the Supreme Court of the United States holding otherwise. On the contrary, the dictum in Gray vs. Rollo is to the effect that it would be.

I therefore conclude that the bill states a valid cause of action in equity and the motion to dismiss is denied.

IN UNITED STATES DISTRICT COURT

STIPULATION AS TO ANSWER—Filed April 11, 1936

And Now, to wit: 9 day of April, 1936, it is stipulated and agreed by and between Robert T. McCracken, Esq., attorney for the complainants, and Thomas J. Minnick, Jr., [fol. 15] Esq., attorney for the respondent, that the time within which the Answer to the Bill of Complaint is to be filed by rules of Court be extended to Friday, April 10, 1936; and that the said Answer, if filed on that day, will be properly filed irrespective of the rules of the court.

It is further agreed that this Stipulation shall be filed of record with full force and effect as if a rule to Show Cause had been granted and made absolute by the Court.

(S.) Robert T. McCracken, Attorney for the Complainants. (S.) Thomas J. Minnick, Jr., Attorney for the Respondent, by Joseph A. Grove, Jr.

IN UNITED STATES DISTRICT COURT

RESPONDENT'S ANSWER TO THE BILL OF COMPLAINT—Filed April 11, 1936

The respondent, reserving to himself all right of exception to the said Bill of Complaint, for answer thereto, saith:

1. The respondent avers that he has no personal knowledge of the facts alleged in paragraph 1 of the Complainant's Bill of Complaint, and, if material, to the issue, demands proof thereof.

2. The respondent avers that he has no personal knowledge of the facts alleged in paragraph 2 of the Complain-

ant's Bill of Complaint, and, if material to the issue demands proof thereof.

3. Admitted.

[fol. 16] 4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. It is admitted that Bessie Swinger and Israel Binenstock, complainants, have requested the respondent to allow as an off-set, in cancellation of the indebtedness of the said partnership firm of Swinger and Binenstock to the Commercial National Bank, so much of the deposit of Benjamin Swinger, and of the deposit of Israel Binenstock at said bank as may be necessary to liquidate and cancel same. It is further admitted that the respondent has always failed and refused to allow the set-off. The respondent avers that the said Commercial National Bank is in the control and possession of the Comptroller of the Currency of the United States, and that its liquidation is governed by the laws of the United States, so that respondent as receiver of the said Bank pursuant to said laws cannot allow the set-off of the individual claims of the complainants against the joint indebtedness of the said partnership.

All of which matters and things this respondent is ready and willing to aver, maintain and prove as this Honorable Court shall direct; and humbly prays to be hence dismissed [fol. 17] with his reasonable costs and charges in this behalf most wrongfully sustained.

(S.) Thomas J. Minnick, Jr., Attorney for Joseph K. Willing, Receiver of the Commercial National Bank, Respondent.

IN UNITED STATES DISTRICT COURT

STIPULATION RE ADMISSIONS—Filed June 9, 1936

And Now, to wit, this 9th day of June, 1936, it is stipulated between counsel as follows:

The averments of paragraphs 1 and 2 of the Bill of Complaint filed herein shall, for the purposes of this case, be taken to be admitted by the defendant upon information and belief.

(S.) Robert T. McCracken, Attorney for Plaintiff.
(S.) Thomas J. Minnick, Jr., Attorney for Defendant, by Joseph A. C. Girone, Jr.

IN UNITED STATES DISTRICT COURT

FINAL DECREE—Filed June 9, 1936

And Now, to wit, this 9th day of June A. D. 1936, this case having come before the Court on Bill and Answer,

It is Ordered and Decreed as Follows:

[fol. 18] 1. Joseph K. Willing, Receiver of Commercial National Bank, is directed to allow as an off-set against the obligation of the partnership firm of Swinger and Binenstock to Commercial National Bank the amount of the deposit of the said firm the amount of the deposit of Benjamin Swinger, deceased, and so much of the deposit of Israel Binenstock in said bank as may be necessary to cancel said indebtedness.

2. The claim of Israel Binenstock against the assets of the said Commercial National Bank is hereby allowed in the amount of Nineteen Thousand Three Hundred Fifty-four and 88/100 Dollars, being the amount of the deposit of the said Israel Binenstock after making provision for the off-set directed in accordance with the first paragraph of this decree.

3. After allowing the said set-off said respondent is directed to endorse without recourse and deliver to Israel Binenstock the promissory note in the amount of Three Hundred Dollars made by Lucieno Cammarota, now held by the bank, and copied as "Exhibit D" as attached to the Bill of Complaint.

4. Respondent is further directed to cancel and return to the complainants the original of the three notes copied as "Exhibit A", "Exhibit B", and "Exhibit C", attached to the Bill of Complaint.

5. The respondent is further directed to pay the costs as a receivership expense.

(S.) W. H. Kirkpatrick, J.

[fol. 19] IN UNITED STATES DISTRICT COURT

EXCEPTION TO DECREE—Filed June 15, 1936

And Now, to wit: this 15th day of June, A. D. 1936, the respondent, Joseph K. Willing, Receiver of the Commercial National Bank, by his attorney, Thomas J. Minnick, Jr., Esq., excepts to the action of the court in making and entering an order and decree as follows:

And Now, to wit: this 9th day of June, A. D. 1936, this case having come before the Court on Bill and Answer,

It is Ordered and Decreed as Follows:

"1. Joseph K. Willing, Receiver of Commercial National Bank, is directed to allow as an off-set against the obligation of the partnership firm of Swinger and Binenstock to Commercial National Bank the amount of the deposit of the said firm, the amount of the deposit of Benjamin Swinger, deceased, and so much of the deposit of Israel Binenstock in said bank as may be necessary to cancel said indebtedness.

"2. The claim of Israel Binenstock against the assets of the said Commercial National Bank is hereby allowed in the amount of nineteen thousand three hundred fifty four and 88/100 Dollars, being the amount of the deposit of the said Israel Binenstock after making provision for the off-set directed in accordance with the first paragraph of this decree.

"3. After allowing the said set-off said respondent is directed to endorse without recourse and deliver to Israel Binenstock the promissory note in the amount of three hundred dollars made by Luciano Cammarota, now held by the bank, and copied as 'Exhibit D' as attached to the Bill of Complaint.

[fol. 20] "4. Respondent is further directed to cancel and return to the complainants the original of the three notes copied as 'Exhibit A' 'Exhibit B' and 'Exhibit C' attached to the Bill of Complaint.

"5. The respondent is further directed to pay the costs as a receivership expense."

Thomas J. Minnick, Jr., by Joseph A. C. Girone, Jr., Attorney for Joseph K. Willing, Receiver of Commercial National Bank, respondent.

Order Allowing Exception

And Now, to wit: this 15th day of June, A. D. 1936, the above Exception is allowed.

(S.) W. H. Kirkpatrick, Judge.

In United States District Court

Assignments of Error—Filed June 10, 1936

And Now, to wit: this 15th day of June, A. D. 1936, comes Joseph K. Willing, Receiver of the Commercial National Bank, defendant, and by his attorney, Thomas J. Minnick Jr., Esq., makes and files this, his Assignments of Error:

1. The learned Trial Judge erred in making the Final Decree.

2. The learned Trial Judge erred in directing the respondent to allow as an off-set against the obligation of the partnership firm of Swinger and Binenstock to Commer- [fol. 21] cial National Bank the amount of the deposit of the said firm, the amount of the deposit of Benjamin Swinger, deceased, and so much of the deposit of Israel Binenstock in said bank as may be necessary to cancel said indebtedness.

3. The learned Trial Judge erred in not dismissing the complainants' Bill of Complaint.

4. The learned Trial Judge erred in allowing the claim of Israel Binenstock against the assets of the said Commercial National Bank, being the amount of the deposit

of Israel Binenstock after making provision for the off-set directed.

5. The learned Trial Judge erred in directing that the respondent endorse without recourse and deliver to Israel Binenstock the promissory note in the amount of three hundred dollars ($300) made by Luciano Cammarota.

6. The learned Trial Judge erred in further directing the respondent to cancel and return to the complainants the original of the three notes copied as "Exhibit A" "Exhibit B" and "Exhibit C" attached to the Bill of complaint.

7. The learned Trial Judge erred in directing the respondent to pay the costs as a Receivership expense.

Thomas J. Minnick, Jr., by Joseph A. C. Girone, Jr.,
Attorney for Joseph K. Willing, Receiver of the
Commercial National Bank.

[fol. 22] IN UNITED STATES DISTRICT COURT

PETITION FOR APPEAL—Filed June 15, 1936

And Now, to wit: this fifteenth day of June A. D. 1936, comes Joseph K. Willing, Receiver of the Commercial National Bank, feeling himself aggrieved by the final decree entered herein on June 9, 1936, in favor of the complainant and against the respondent, does hereby appear from said final decree, and from the whole and every part thereof, to the United States Circuit Court of Appeals for the Third Circuit, and prays that said appeal may be allowed, and does hereby present its assignments of error, and prays that said case may be certified to the said Circuit Court of Appeals for the Third Circuit.

Thomas J. Minnick, Jr., by Joseph A. C. Girone, Jr.,
Attorney for Joseph K. Willing, Receiver of the
Commercial National Bank.

IN UNITED STATES DISTRICT COURT

ORDER ALLOWING APPEAL—Filed June 15, 1936

And Now, to wit: this 15th day of June A. D. 1936, it is ordered that the appeal be allowed, as prayed for, and same shall act as a supersedeas.

By the Court.

(S.) W. H. Kirkpatrick, Judge.

[fol. 23] IN UNITED STATES DISTRICT COURT

PRAECIPE FOR RECORD—Filed June 15, 1936

To the Clerk of the said Court:

Prepare Transcript of the record in the above entitled case for filing an appeal to the Circuit Court of Appeals, and include the following:

Docket Entries.
Bill of Complaint.
Stipulation of Counsel waiving time limit within which to file Answer, etc.
Answer by way of Preliminary Objections.
Opinion, Kirkpatrick, J., denying motion to dismiss Bill of Complaint.
Stipulation of Counsel extending time within which to file Answer to Bill of Complaint.
Answer to Bill of Complaint.
Stipulation of Counsel admitting paragraphs in Bill of Complaint.
Final Decree in favor of Complainant with costs.
Assignments of Error.
Petition for Appeal.
Order Allowing Petition for Appeal.
Certificate of Clerk.
and no others.

(S.) Joseph A. C. Girone, Jr., for Thomas J. Minnick, Jr., Attorney for Joseph K. Willing, Receiver of the Commercial National Bank.

[fol. 24] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 25] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT, OCTOBER TERM, 1936

[Title omitted]

MINUTE ENTRY OF HEARING

And afterwards, to wit, the 14th day of October, 1936, come the parties aforesaid by their counsel aforesaid, and this case being called for argument sur pleadings and briefs, before the Honorable Joseph Buffington, Honorable J. Warren Davis, and Honorable J. Whitaker Thompson, Circuit Judges, and the Court not being fully advised in the premises, takes further time for the consideration thereof.

And afterwards, to wit, on the 2d day of February, 1937, come the parties aforesaid by their counsel aforesaid, and the Court, now being fully advised in the premises, renders the following decision:

[fol. 26] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT, OCTOBER TERM, 1936

No. 6183

JOSEPH K. WILLING, Receiver of the Commercial National Bank, Defendant-Appellant,

v.

ISRAEL BINENSTOCK, Individually, and as Surviving Partner of the Partnership Firm of Swinger and Binenstock, and Bessie Swinger, Individually, and as Executrix of the Estate of Benjamin Swinger, Deceased, Plaintiffs-Appellees

Appeal from the District Court of the United States for the Eastern District of Pennsylvania

OPINION—Filed February 2, 1937

Before Buffington, Davis and Thompson, Circuit Judges

Per Curiam:

This is an appeal from a decree of the District Court for the Eastern District of Pennsylvania. The appellant is the receiver of a national bank. The bank held promissory

notes in excess of $20,000 upon which the partners Swinger [fol. 27] and Binenstock were jointly liable. Binenstock had in his personal deposits at the bank a sum in excess of $30,000 and Swinger had on deposit approximately $1500. The receiver was about to sue the partners for the balance of the joint indebtedness upon the promissory notes and had indicated that he would refuse to allow the personal deposits to be set off against this indebtedness. Binenstock and Swinger's executrix filed a bill in equity praying a decree against the receiver directing that the individual deposits be set off against the joint liability on the notes. The District Court allowed the decree.

The opinion of the trial Judge (reported in —) discusses the question involved at length and, in our judgment, the court below was justified in following the Pennsylvania rule, for, as said in 290 U. S. 47, "for the sake of harmony and to avoid confusion, the Federal courts will lean towards an agreement of views with the State Courts if the question seems to them balanced with doubt".

So regarding, the judgment is affirmed on the District Judge's opinion.

A true Copy. Teste:

——, ——, Clerk of the United States Circuit Court of Appeals for the Third Circuit.

[fol. 28] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT, OCTOBER TERM, 1936

No. 6183

JOSEPH K. WILLING, Receiver of Commercial National Bank, Appellant,

vs.

ISRAEL BINENSTOCK, Individually and as Surviving Partner of the Partnership of Swinger and Binenstock, et al., Appellees

JUDGMENT—Filed February 2, 1937

Appeal from the District Court of the United States, for the Eastern District of Pennsylvania

This cause came on to be heard on the transcript of record from the District Court of the United States, for the Eastern District of Pennsylvania, and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this Court that the decree of the said District Court in this cause be, and the same is hereby affirmed, with costs.

Philadelphia, February 2, 1937.

J. W. Thompson, Circuit Judge.

[File endorsement omitted.]

[fol. 29] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 30] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed May 24, 1937

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Endorsed on cover: File No. 41,474. U. S. Circuit Court of Appeals, Third Circuit. Term No. 36. Joseph K. Willing, Receiver of Commercial National Bank, Philadelphia, Pennsylvania, petitioner, vs. Israel Binenstock, Individually and as Surviving Partner of the Partnership Firm of Swinger and Binenstock, et al. Petition for a writ of certiorari and exhibit thereto. Filed April 28, 1937. Term No. 36, O. T., 1937.